

**From:** D. K. Smetters  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

I think the current Microsoft Settlement is badly designed, and will not prevent Microsoft from continuing to extend and abuse its monopoly power. There are a wide range of specific points on which this settlement agreement fails to curb Microsoft's egregious business practices, and even where the settlement attempts to take a stand on what Microsoft can and cannot do, it presents no real enforcement mechanism.

Experience with prior consent decrees against Microsoft shows that the company will attempt to thwart the justice department in any way that it possibly can; and that therefore an effective settlement against them must be water-tight, and easy to monitor and enforce. It must prevent Microsoft from replacing its current mechanisms to strongarm OEMs into promoting Windows and IE to the detriment of other options with new mechanisms that achieve the same effect but escape the language of the settlement. You cannot hope to do that if you don't start with a settlement that effectively limits their current illegal practices.

Please see <http://www.kegel.com/remedy/letter.html> for a well-written discussion of many of the problems of the current settlement. I believe this list only begins to cover the problems of creating an effective settlement; such an effective settlement must be constructed to not only prevent Microsoft from continuing their current offenses, it must keep them from changing the "look and feel" of their offenses slightly to escape the settlement.

thank you,  
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